

SENATE BILL 318

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 30, relative to state employees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 30, is amended by adding the following language as a new Part 4:

§ 8-30-401

(a) In the event that a reduction-in-force is implemented, notwithstanding any other provision of law to the contrary, including but not limited to any related rules, policies, practices, procedures or orders, the commissioner of human resources, in addition to any other existing powers, shall have the power and authority to move qualified employees by transfer, promotion, reduction in rank, or lateral reclassification within and between agencies without requiring certification on any list of eligibles. The commissioner also shall have the power and authority to suspend provisions of 8-30-320, including any related statutes, rules, policies, practices, procedures and orders related to salary reductions, provided, however, the commissioner may not suspend or otherwise alter provisions related to employee's "bumping" and "retreating" rights as defined by 8-30-101 and related statutes, rules, policies, practices, procedures and orders.

(b) The commissioner shall adopt policies and procedures to administer the provisions of this act. These policies and procedures shall be posted on the department's website.

(c) Notwithstanding the provisions of this chapter, in the event that a reduction-in-force is implemented, any full-time career employee who is separated shall be entitled

to either ninety (90) days written notice of separation or equivalent pay and certain benefits, including the employer portion of insurance payments for a maximum of ninety (90) days following the initial notice of layoff and longevity pay, if the employee would have otherwise been entitled to such longevity pay during the ninety (90) days following the initial notice of layoff. The commissioner may authorize the same payment and benefits to full-time employees in the executive service who are separated in the event that a reduction-in-force is implemented. The ninety (90) day notice or equivalent pay and benefits in lieu of notice shall be in addition to payment for the employee's unused annual and compensatory time, if applicable.

(d) Any change to an employee's compensation made under the provisions of the act shall not be rescinded.

(e) Any action taken pursuant to this act by the commissioner of human resources, appointing authorities, or their designees shall not be subject to minimum due process requirements or be considered grievable.

SECTION 2. Tennessee Code Annotated, Title 8, Chapter 30, is amended by adding the following language as a new section in the new Part 4:

§ 8-30-402

(a) In the event that a reduction-in-force is implemented, in order to meet the necessary budgetary constraints but still fulfill the requirements of the Brian A. Consent Decree and notwithstanding any other provision of law to the contrary, including but not limited to any related rules, policies, practices, procedures or orders, the commissioner of children's services, in addition to any other existing powers, is authorized to move qualified employees by transfer, promotion, reduction in rank, or lateral reclassification within the department of children's services. The commissioner of children's services is also authorized to suspend the provisions of 8-30-320, 8-30-322, and any rules,

policies, practices, procedures or orders related to layoff or reduction-in-force and any provision of 8-30-208(f) and any rules, policies, practices, procedures or orders related to the rights of certain executive service employees to return to career service positions.

(b) The commissioner of children's services shall adopt a plan to administer the provisions of this section. This plan shall be posted on the department of children's services' website.

(c) Notwithstanding the provisions of this section, in the event that a reduction-in-force is implemented, any full-time career employee who is terminated shall be entitled to ninety (90) days written notice of termination or equivalent pay and certain benefits, including the employer portion of insurance payments for a maximum of ninety (90) days and longevity pay, if the employee would have otherwise been entitled to such longevity pay during the ninety (90) days following the initial notice of layoff. The ninety (90) day notice or equivalent pay and benefits in lieu of notice shall be in addition to payment for the employee's unused annual and compensatory time, if applicable.

(d) Any change to an employee's position, classification, rank, compensation or salary grade made pursuant to this section shall not be rescinded, unless the commissioner of children's services, in her sole discretion, determines that an employee affected by this provision should be re-instated to such employee's former position.

(e) Any action taken pursuant to this section by the commissioner of children's services shall not be subject to minimum due process requirements or be considered grievable.

SECTION 3. Tennessee Code Annotated, Section 8-30-320 is amended by adding the following language immediately following the first sentence of subsection (c):

Notwithstanding any other law to the contrary, including but not limited to 4-4-105, the reduction of scheduled hours of work authorized by this section shall include the closing of any or all state

departments on any day or partial day of the week, when determined to be necessary by the governor as a result of reductions in funding levels.

SECTION 4. The provisions of this act shall be administered consistent with the state's equal employment opportunity policies and obligations. All actions taken pursuant to this act shall be in strict compliance with all applicable state and federal civil rights laws.

SECTION 5. Section 1 and Section 2 of this act are hereby repealed on June 30, 2010.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.